

The parol declarations of the husband, that he had obtained a receipt from his wife, who was one of the legatees in the will, as a matter of form, to enable him to settle an account as executor in the Orphans Court, and not upon actual payment, made at the time of settling, were held to constitute a part of the *res gestæ*, and, as such, admissible, to contradict and overthrow the receipt, though they might operate in favor of the wife.

THE CHANCELLOR:

The proceedings in this case show, that on the 6th of March, 1849, Charles A. Williamson, as executor of Mary Ann Jones, deceased, filed his bill in this court, for the foreclosure and sale of certain mortgaged premises, which, on the 17th of September, 1838, had been mortgaged by Susan Ann Leduc, deceased, to Levin Jones and Mary Ann his wife, (the latter being the testatrix of the complainant,) to secure the sum of \$7000, the principal sum to be paid within ten years from the date of the mortgage, and the interest annually from said date. It further appears, that Levin Jones died in the year 1842, leaving his wife surviving him; and that, by his will, duly executed, proved and recorded, he devised and bequeathed his entire estate to his said wife; and that the latter, by her will, also duly executed, proved and recorded, devised and bequeathed her whole estate, subject to the payment of some legacies and debts, to her niece, Ann S. Williamson, (wife of the complainant, Charles A. Williamson,) "for her sole and separate use, benefit and behoof, for and during the term of her natural life, and from and immediately after her death, to her said husband, for and during the term of his natural life, in case he should survive his said wife; and from and after the decease of the longest liver of them, the said Ann S. and Charles A. Williamson, then for the proper use, benefit and behoof of the children or child of the said Ann S. Williamson, if any there be, equally, if more than one, their heirs, &c., forever. But in case the said Ann S. Williamson should die without leaving a child, or the descendant of a child, that shall survive her, then, from and after the death of both her and her aforesaid husband, to the person or persons that might be named and appointed in and by the last will of the said Ann S. Williamson, to re-